



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE  
International Trade Administration  
(A-570-831)

Fresh Garlic from the People's Republic of China: Initiation of Antidumping Duty New Shipper Review; 2013-2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On May 21, 2014, the Department received a timely request for NSR from Jinxiang Kaihua Imp & Exp Co., Ltd. (Kaihua), in accordance with section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214(c). The Department of Commerce (Department) has determined that the request for a new shipper review (NSR) of the antidumping duty order on fresh garlic from the People's Republic of China (PRC) meets the statutory and regulatory requirements for initiation. The period of review (POR) is November 1, 2013, through April 30, 2014.

EFFECTIVE DATE: (Insert date of publication in the Federal Register.)

FOR FURTHER INFORMATION CONTACT: Milton Koch, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2584.

## SUPPLEMENTARY INFORMATION:

### Background

The Department published the antidumping duty order on fresh garlic from the PRC in the Federal Register on November 16, 1994.<sup>1</sup> On May 21, 2014, the Department received a timely request for NSR from Kaihua. Kaihua certified that it is the exporter and producer of the fresh garlic upon which the request for a NSR is based. Pursuant to section 751(a)(2)(B)(i)(I) of the Act and 19 CFR 351.214(b)(2)(i), Kaihua certified that it did not export fresh garlic for sale to the United States during the period of investigation (POI).<sup>2</sup> Moreover, pursuant to section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A), Kaihua certified that, since the investigation was initiated, it never has been affiliated with any exporter or producer who exported the subject merchandise to the United States during the POI, including those not individually examined during the investigation.<sup>3</sup> Further, as required by 19 CFR 351.214(b)(2)(iii)(B), it certified that its export activities are not controlled by the central government of the PRC.<sup>4</sup> Kaihua also certified it had no subsequent shipments of subject merchandise.<sup>5</sup>

In addition to the certifications described above, pursuant to 19 CFR 351.214(b)(2)(iv), Kaihua submitted documentation establishing the following: (1) the dates on which the fresh garlic was first entered; (2) the volumes of those shipments; and (3) the date of its first sale to an unaffiliated customer in the United States.<sup>6</sup>

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<sup>1</sup> See Antidumping Duty Order: Fresh Garlic From the People's Republic of China, 59 FR 59209 (November 16, 1994).

<sup>2</sup> See Kaihua's request for an NSR dated May 21, 2014 at Exhibit 1.

<sup>3</sup> Id.

<sup>4</sup> Id.

<sup>5</sup> Id.

<sup>6</sup> See Kaihua's request for an NSR at Exhibit 2.

The Department queried the database of U.S. Customs and Border Protection (CBP) in an attempt to confirm that shipment reported by Kaihua had entered the United States for consumption and that liquidation had been properly suspended for antidumping duties. The information which the Department examined was consistent with that provided by Kaihua in its request.<sup>7</sup>

#### Period of Review

Pursuant to 19 CFR 351.214(c), an exporter or producer may request an NSR within one year of the date on which its subject merchandise was first entered. Moreover, 19 CFR 351.214(d)(1) states that if the request for the review is made during the six-month period ending with the end of the semiannual anniversary month, the Secretary will initiate an NSR in the calendar month immediately following the semiannual anniversary month. Further, 19 CFR 351.214(g)(1)(i)(B) states that if the NSR was initiated in the month immediately following the semiannual anniversary month, the POR will be the six-month period immediately preceding the semiannual anniversary month. Within one year of the date on which its fresh garlic was first entered, Kaihua made the request for an NSR that included all documents and information required by the statute and regulations. Its request was filed in May, which is the semiannual anniversary month of the order. Therefore, the POR is November 1, 2013, through April 30, 2014.<sup>8</sup>

#### Initiation of New Shipper Review

Pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214(b), and the information on the record, the Department finds that Kaihua's request meets the threshold requirements for

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<sup>7</sup> See Memo to the File from Milton Koch, International Trade Compliance Analyst, "New Shipper Reviews of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China: Customs Entries from November 1, 2014, to April 30, 2014," dated August 1, 2014.

<sup>8</sup> See 19 CFR 351.214(g)(1)(i)(B).

initiation of an NSR and, therefore, is initiating an NSR of Kaihua. The Department intends to issue the preliminary results within 180 days after the date on which this review is initiated and the final results within 90 days after the date on which we issue the preliminary results.<sup>9</sup>

It is the Department's usual practice in cases involving non-market economies to require that a company seeking to establish eligibility for an antidumping duty rate separate from the country-wide rate (i.e., a separate rate) provide evidence of de jure and de facto absence of government control over the company's export activities.<sup>10</sup> Accordingly, the Department will issue questionnaires to Kaihua that include a separate rate section. The review will proceed if the responses provide sufficient indication that the exporter and producer are not subject to either de jure or de facto government control with respect to their exports of fresh garlic.

The Department will instruct CBP to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for certain entries of the subject merchandise from Kaihua in accordance with section 751(a)(2)(B)(iii) of the Act and 19 CFR 351.214(e). Specifically, the bonding privilege will only apply to entries of subject merchandise exported and produced by Kaihua, the sales of which are the basis for this NSR request.

Interested parties requiring access to proprietary information in this proceeding should submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

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<sup>9</sup> See section 751(a)(2)(B)(iv) of the Act.

<sup>10</sup> See Import Administration Policy Bulletin, Number: 05.1. (<http://ia.ita.doc.gov/policy/bull05-1.pdf>).

This initiation and notice are in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i).

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Christian Marsh  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

August 1, 2014  
Date

[FR Doc. 2014-18708 Filed 08/06/2014 at 8:45 am; Publication Date: 08/07/2014]